

In response to proceeding 02-230:

The need to subdue the infringement of television copyright is a valid concern, however a government mandated copyright flag is woefully inadequate to prevent any type of mass copyright infringement. The only thing the broadcast flag will prevent is fair use space and time shifting by individuals and the technological advancement of commercial offerings in that sector.

Mass copyright infringement as seen with file trading services such as KAZAA rely on viral distribution. It only takes a single person sharing a television broadcast before it spreads across the network. Even if it were possible to prevent any skilled individual from tapping the digital output on an ATSC decoder, the quality of the files shared on file sharing networks is considerably less than what was originally broadcast due to bandwidth restraints on the part of the participants.

A first generation analog copy that has been digitized would be indistinguishable from a digital copy with the degradation introduced by the reduction in quality to make the resulting file small enough to be shared on file-trading services. Indeed, a large percentage of movie copyright infringement on file trading services is known as "telesyncs." These files were originally recorded using a digital camcorder set up in a movie theater and have significantly less quality than a first generation analog copy, but that has not deterred massive copyright infringement of the movies.

Furthermore, without any encryption of the broadcast signal the construction of an ATSC decoder that outputs the raw data-stream to a computer could be built by any third year electrical engineering student. Indeed, many of these have been on the market for several years and are easily obtained.

It is my deepest belief that copy protection be kept off the public airwaves even at the expense of near-term high quality unedited content. It doesn't make good economic sense for media companies to close down a distribution channel altogether when the effects on copyright infringement in the end-run are negligible. When push comes to shove, I believe the media industries will realize this.

Sincerely,

Jordan Mendelson